



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 24, 1995

Mr. G. Mike Davis
State Fire Marshal
Texas Commission on Fire Protection
P.O. Box 2286
Austin, Texas 78768-2286

OR95-695

Dear Mr. Davis:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 32245.

The Texas Commission on Fire Protection (the "commission") received a request for a report concerning a fire in Winnsboro, Wood County, Texas. You claim that the bulk of the report is excepted from disclosure pursuant to section 552.108 of the Government Code. Additionally, you claim that section 51.14(d) of the Family Code protects portions of the report.¹ You have provided to this office a copy of the records you believe to be excepted from disclosure.

You advise us that the requested information relates to an active investigation by the Office of the State Fire Marshal. We note that the Office of the Attorney General has recently issued Open Records Letter No. 95-642 (1995) a "previous determination" to the Texas Commission on Fire Protection pursuant to section 552.301 of the Government Code for records of active investigations the commission claims are excepted from disclosure under section 552.108. Accordingly, the commission may rely on the ruling in Open Records Letter No. 95-642 (1995) (copy enclosed) as a determination for this request for information. Please use the markings on the documents submitted with Open Records Letter No. 95-642 (1995) as a guide for releasing the information deemed open

¹The report does not indicate that the suspects are juveniles nor does it provide a basis for identification of juveniles. See Fam. Code § 51.14(d). Therefore, section 51.14(d) does not prohibit disclosure of this information.

under *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). If you receive a new request for these records once the investigation is closed and you wish to withhold the records under section 552.108, you may not rely on Open Records Letter No. 95-642 (1995). In that case, you must request a ruling from this office to explain how release of the records would unduly interfere with law enforcement. See Open Records Decision No. 611 (1992) at 2. As we resolve this request under section 552.108 of the Government Code, we need not address the applicability of section 51.14(d) of the Family Code.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Government Section

LRD/LBC/rho

Ref: ID# 32245

Enclosures: Open Records Letter No. 95-642 (1995)
Submitted documents

cc: Mr. David Turrentine
Claim specialist
State Farm Insurance Companies
4410 Kinsey Drive
Tyler, Texas 75703-1003
(w/o enclosures)